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EXAMINER

CORBIN, ARTHUR L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/144,400

Applicant(s)

FRADIN ET AL

Examiner

ARTHUR L. CORBIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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1. Claims 2-4 and 7-11 are objected to because of the following informalities: In claim 2, "area" should be added after "surface" (line 4). In claims 3, 4 and 7-10 the numbers and letters in parentheses should be cancelled. In claim 9, line 3, "towards" should be changed to "takes". In claim 11, lines 5-6, "in that" should be cancelled. In claim 8, "whilst" should be "while". Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite as to scope in reciting "preferably warm (before ⁵gorg/mortis)", which should be cancelled. Claim 1 is indefinite in reciting "a ... average" (last 2 lines), which should be changed to "an average surface area". In each of claims 1-11, "characterized in that" is ^{mis}descriptive and should be changed to "wherein". Claim 11 is indefinite in reciting "can be" (line 6), which should be changed to "is". Also, there is no antecedent basis in claim 1 for "the cooling" (claim 11, line 4) or in claim 3 for "the piston" (claim 4). Corrections are required without new matter.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 5 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fradin (5,017,393, cols 2-3 and claims 1-3).

Fradin discloses fragmenting warm muscle, meat into pieces, having an area and thickness as claimed (claim 2), cooling the pieces with carbon dioxide snow, compacting or ^{re}passing the pieces, superimposed upon each other, to form elongated blocks, slicing the blocks in a direction perpendicular to their length, i.e., parallel to the principal faces, to obtain ultrathin layers having a surface area up to 20 cm² and then restructuring the ultrathin layers in a vacuum during a non-destructive shaping operation to obtain a laminated structure.

7. Claims 3, 4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over ^{Fradin. A} ~~Aram~~ or Piston is a conventional tool for compressing meat. The claimed vacuum control (claims 7 and 8) is a conventional technique for applying and releasing a vacuum.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fradin in view of Fradin et al (WO 93/14648, abstract), Linane et al (Fig. 2) or Cordon (2,752,252, col. 2, lines 39-60). It would have been obvious to slice the meat blocks in Fradin by means of a rotating disc cutter as claimed by applicant since such a cutting procedure is conventional for cutting meat, as evidenced by any of the secondary references.

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9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fradin in view of Fradin et al (French patent 2,683,124, Figs. 2-4).

It would have been obvious to form the blocks of meat in Fradin in an extrusion device having parallel ^{helical} ~~axial~~ screws since it is old to shape meat by such a procedure, as evidenced by the French patent.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Condon (2,527,493), Mart and Minder show various meat restructuring operations.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is 703-308-3850. The examiner can normally be reached on Tuesday-Friday from 10 am to 7:30 pm. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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A. Corbin/mn
July 31, 2003


ARTHUR L. CORBIN
PRIMARY EXAMINER

1-31-03